

AMENDED IN SENATE JUNE 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 997**

---

**Introduced by Assembly Member Chesbro**

February 22, 2013

---

An act amend ~~Section 40116.1 of, and to add Section 40103 to Sections 43209, 44012, and 44307 of, and to add Section 43200.5 to,~~ the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

AB 997, as amended, Chesbro. ~~Composting: anaerobic digestion. Solid waste: enforcement agencies.~~

*(1) Existing law, the California Integrated Waste Management Act of 1989 (act), provides for the designation of an enforcement agency under specified procedures, including by the board of supervisors of a county for purposes of the county, by the county and the cities within the county pursuant to a joint exercise of powers agreement, by a city council for purposes of the city, or by the board of supervisors of a county for purposes of the unincorporated area of the county. Existing law requires the Department of Resources Recycling and Recovery to prepare and adopt certification regulations for local enforcement agencies.*

*This bill would provide that the enforcement agency, when exercising the authority or fulfilling the duties specified in certain provisions of the act, would be deemed to be carrying out a state function governed by the act. The bill would also provide that, in carrying out this state function, the enforcement agency would be deemed to be independent from the local governing body and the enforcement agency's actions would not be subject to the authority of the local governing body. The*

*bill would also provide that if an enforcement agency is authorized or required to take an action by a state law or local ordinance and that action is not otherwise authorized or required by certain provisions of the act, the enforcement agency would, with regard to that action, be governed only by that local ordinance or state law.*

*(2) Existing law requires enforcement agencies to perform specified functions with regard to solid waste handling and the issuance and enforcement of solid waste facilities permits, including establishing and maintaining an enforcement program. Existing law allows the enforcement agency to establish specific local standards for solid waste handling and disposal and requires these standards to be consistent with the act.*

*This bill would require those specific local standards for solid waste handling and disposal to be incorporated into the enforcement agency's enforcement program and approved by the department.*

*(3) Existing law requires the enforcement agency, when issuing or revising a solid waste facilities permit, to ensure that primary consideration is given to protecting public health and safety and preventing environmental damage and that the long-term protection of the environment is the guiding criterion.*

*This bill would authorize the enforcement agency, when issuing or revising a solid waste facilities permit, to impose those terms and conditions on a solid waste facilities permit that it deems necessary and appropriate to govern the design and operation of the solid waste facility, for purposes of implementing those policies specified above.*

*(4) Existing law requires an enforcement agency to hold a hearing upon a petition regarding an alleged failure to act as required by law.*

*This bill would instead require the enforcement agency to hold that hearing upon a petition alleging a failure to act pursuant to specified provisions of the act, or the regulations adopted pursuant to specified provisions of the act, thereby imposing a state-mandated local program.*

*(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~The California Integrated Waste Management Act of 1989 establishes an integrated waste management program administered by the Department of Resources Recovery and Recycling that requires each~~

city, county, and regional agency, if any, to develop a source reduction and recycling element of an integrated waste management plan. The element is required to divert 50% of the solid waste subject to the element through source reduction, recycling, and composting activities. The act allows the source reduction and recycling element to include not more than 10% diversion through transformation, which is defined as excluding, among other things, composting. The act defines the term “composting” for the purposes of the act as the controlled or uncontrolled biological decomposition of organic wastes. The act also defines the term “solid waste facility,” for purposes of the permitting requirements of the act, as a composting facility.

This bill would define the term “anaerobic digestion,” for purposes of the act, as a process using the bacterial breakdown of compostable organic material in a controlled environment that meets the parameters that may be established by the department, and would revise the definition of the term “composting” to include anaerobic digestion.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 43200.5 is added to the Public Resources  
2     Code, to read:  
3     43200.5. (a) An enforcement agency that has been designated  
4     by the local governing body and certified by the department  
5     pursuant to this chapter shall have the authority provided, and the  
6     duties required, by this part, Part 5 (commencing with Section  
7     45000), and Part 6 (commencing with Section 45030).  
8     (b) When exercising the authority and fulfilling the duties  
9     specified in subdivision (a), an enforcement agency shall be deemed  
10    to be carrying out a state function that is governed by this division.  
11    In carrying out this state function, an enforcement agency shall  
12    be deemed to be independent from the local governing body, and  
13    the enforcement agency’s actions in carrying out this state function  
14    shall not be subject to the authority of the local governing body.  
15    (c) If an enforcement agency is authorized or required to take  
16    an action by a state law or local ordinance and that action is not  
17    otherwise authorized or required by this part, Part 5 (commencing  
18    with Section 45000), or Part 6 (commencing with Section 45030),  
19    the enforcement agency shall, with regard to that action, be

1 *governed only by that local ordinance or state law, respectively,*  
2 *in exercising that authority or carrying out that requirement and*  
3 *shall not be governed by this division.*

4 SEC. 2. *Section 43209 of the Public Resources Code is*  
5 *amended to read:*

6 43209. The enforcement agency, within its jurisdiction and  
7 consistent with its certification by the board, shall do all of the  
8 following:

9 (a) Enforce applicable provisions of this part, regulations  
10 adopted under this part, and terms and conditions of permits issued  
11 pursuant to Chapter 3 (commencing with Section 44001).

12 (b) Request enforcement by appropriate federal, state, and local  
13 agencies of their respective laws governing solid waste storage,  
14 handling, and disposal.

15 (c) File with the board, upon its request, information the board  
16 determines to be necessary.

17 (d) Develop, implement, and maintain inspection, enforcement,  
18 permitting, and training programs.

19 (e) (1) Establish and maintain an enforcement program  
20 consistent with regulations adopted by the board to implement this  
21 chapter, the standards adopted pursuant to this chapter, and the  
22 terms and conditions of permits issued pursuant to Chapter 3  
23 (commencing with Section 44001).

24 (2) The enforcement agency may establish specific local  
25 standards for solid waste handling and disposal subject to approval  
26 by a majority vote of its local governing body, by resolution or  
27 ordinance, *if those standards are incorporated into the enforcement*  
28 *program specified in paragraph (1) and are approved by the*  
29 *department.*

30 (3) A standard established pursuant to this subdivision shall be  
31 consistent with this division and all regulations adopted by the  
32 board.

33 (f) Keep and maintain records of its inspection, enforcement,  
34 permitting, training, and regulatory programs, and of any other  
35 official action in accordance with regulations adopted by the board.

36 (g) (1) Consult, as appropriate, with the appropriate local health  
37 agency concerning all actions which involve health standards.

38 (2) The consultation required by this subdivision shall include  
39 affording the health agency adequate notice and opportunity to

1 conduct and report the evaluation as it reasonably determines is  
2 appropriate.

3 (h) Establish and maintain an inspection program.

4 (1) The inspection program required by this subdivision shall  
5 be designed to determine whether any solid waste facility is  
6 operating under any of the following:

7 (A) The facility is operating without a permit.

8 (B) The facility is operating in violation of state minimum  
9 standards.

10 (C) The facility is operating in violation of the terms and  
11 conditions of its solid waste facilities permit.

12 (D) The facility may pose a significant threat to public health  
13 and safety or to the environment, based on any relevant  
14 information.

15 (2) The inspection program established pursuant to this  
16 subdivision shall also ensure frequent inspections of solid waste  
17 facilities that have an established pattern of noncompliance with  
18 this division, regulations adopted pursuant to this division, or the  
19 terms and conditions of a solid waste facilities permit. The  
20 inspection program may include public awareness activities,  
21 enforcement to prevent the illegal dumping of solid waste, and the  
22 abatement of the illegal dumping of solid waste.

23 *SEC. 3. Section 44012 of the Public Resources Code is*  
24 *amended to read:*

25 44012. (a) When issuing or revising~~any~~ a solid waste  
26 facilities permit, the enforcement agency shall ensure that primary  
27 consideration is given to protecting public health and safety and  
28 preventing environmental damage, and that the long-term  
29 protection of the environment is the guiding~~criterion, and that any~~  
30 ~~terms~~ criterion.

31 (b) *When issuing or revising a solid waste facilities permit, an*  
32 *enforcement agency may impose those terms and conditions on a*  
33 *solid waste facilities permit that it deems necessary and*  
34 *appropriate to govern the design and operation of the solid waste*  
35 *facility, for purposes of implementing the requirements of*  
36 *subdivision (a).*

37 (c) *The terms and conditions of the solid waste facilities permit*  
38 *are imposed by an enforcement agency pursuant to this section*  
39 *shall be consistent with the enforcement policy adopted pursuant*

1 to subdivision (e) of Section 43209 and *shall be consistent with*  
2 *this division.*

3 *SEC. 4. Section 44307 of the Public Resources Code is*  
4 *amended to read:*

5 44307. From the date of issuance of a permit that imposes  
6 conditions that are inappropriate, as contended by the applicant,  
7 or after the taking of any enforcement action pursuant to Part 5  
8 (commencing with Section 45000) by the enforcement agency,  
9 the enforcement agency shall hold a hearing, if requested to do so,  
10 by the person subject to the action. The enforcement agency shall  
11 also hold a hearing upon a petition to the enforcement agency from  
12 any person requesting the enforcement agency to review an alleged  
13 failure of the agency to act as required by ~~law this part, Part 5~~  
14 ~~(commencing with Section 45000), or Part 6 (commencing with~~  
15 ~~Section 45030) or a regulation adopted by the department pursuant~~  
16 ~~to this part, Part 5 (commencing with Section 45000), or Part 6~~  
17 ~~(commencing with Section 45030). A hearing shall be held in~~  
18 ~~accordance with the procedures specified in Section 44310.~~

19 *SEC. 5. No reimbursement is required by this act pursuant to*  
20 *Section 6 of Article XIII B of the California Constitution because*  
21 *a local agency or school district has the authority to levy service*  
22 *charges, fees, or assessments sufficient to pay for the program or*  
23 *level of service mandated by this act, within the meaning of Section*  
24 *17556 of the Government Code.*

25 ~~SECTION 1. Section 40103 is added to the Public Resources~~  
26 ~~Code, to read:~~

27 ~~40103. "Anaerobic digestion" means a process using the~~  
28 ~~bacterial breakdown of compostable organic material in a~~  
29 ~~controlled environment that meets the parameters that may be~~  
30 ~~established by the department.~~

31 ~~SEC. 2. Section 40116.1 of the Public Resources Code is~~  
32 ~~amended to read:~~

33 ~~40116.1. "Composting" means the controlled or uncontrolled~~  
34 ~~biological decomposition of organic wastes, including through~~  
35 ~~anaerobic digestion.~~